

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

In re:

Integrated Health Services, Inc., et al.,
Debtors.

Case No. 00-389 (MFW)
Jointly Administered

IHS LIQUIDATING LLC,

Plaintiff,
v.
(GMS)

Civil Action No. 05-376

ACE INDEMNITY INSURANCE COMPANY
f/k/a INDEMNITY INSURANCE COMPANY OF
NORTH AMERICA,

Defendant.

IHS LIQUIDATING LLC,
(GMS)

Civil Action No. 04-1262

Third Party Plaintiff,
v.

NATIONAL UNION FIRE INSURANCE COMPANY
OF PITTSBURGH, PA, GENERAL STAR
INDEMNITY COMPANY and ACE INDEMNITY
INSURANCE COMPANY f/k/a INDEMNITY
INSURANCE COMPANY OF NORTH AMERICA

Third-Party Defendants.

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ACE INDEMNITY INSURANCE COMPANY
f/k/a INDEMNITY INSURANCE COMPANY OF
NORTH AMERICA,

Third-Party Defendant and
Fourth-Party Plaintiff,
v.

NATIONAL UNION FIRE INSURANCE
COMPANY OF PITTSBURGH, PA, and
GENERAL STAR INDEMNITY COMPANY,

Fourth-Party Defendants. /

**CROSS-CLAIM DEFENDANT NATINOAL UNION'S MOTION FOR LEAVE TO
FILE SURREPLY TO IICNA'S REPLY BRIEF TO NATIONAL UNION'S
OPPOSITION TO IICNA'S MOTION TO AMEND**

Pursuant to U.S. District Court of Delaware Local Rules 7.2.1(c) and 7.1.3 (c)(2), Cross-Claim Defendant, National Union, by and through undersigned counsel, hereby requests leave to file the attached Surreply to IICNA's Reply Brief to National Union's Opposition to IICNA's Motion to Amend, and in support thereof, respectfully states as follows:

1. A surreply brief is necessary for National Union to address a claim raised for the first time in IICNA's Reply Brief and not disclosed in its motion to amend. U.S. District Court of Delaware Local Rule 7.1.3(c)(2) specifically provides that "The party filing the opening brief shall not reserve material for the reply brief which should have been included in a full and fair opening brief." Nonetheless, in its Reply Brief to National Union's Opposition to IINCA's Motion to Amend, IICNA raises for the first time a claim that National Union allegedly included the non--pyramiding endorsements in the 2000 Policies without notice, and hence, was obligated to continue the coverage provided in the 1999 Policies, without the limits of coverage imposed under the non--

pyramiding endorsements to the 2000 Policies. This new claim, however, was not pleaded in IICNA's proposed cross-claim, or in its opening brief in support of its Motion to Amend.

2. Surreply is therefore necessary for National Union to address the merits of this newly raised claim and to explain to the Court why the claim is both belated and meritless. Accordingly, National Union respectfully requests the Court grant this Motion for leave to file the enclosed proposed Surreply in accordance with Local Rule Local Rule 7.2.1(c), and deem it filed on the date the Motion is granted.

Dated: August 20, 2007
Wilmington, Delaware

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PRE-FILING CONFERENCE

Pursuant to Local Rule 7.1.1 of the United States District Court for the District of Delaware, counsel for National Union conferred with Counsel for IICNA, who did not consent to the relief sought herein.

/s/ Christopher P. Simon

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